

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 71, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

- Delete everything after the enacting clause and insert the following:
 - SECTION 1. IC 10-1-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The superintendent is authorized to establish a data base of DNA identification records for **arrested and** convicted criminals, crime scene specimens, unidentified missing persons, and close biological relatives of missing persons.
 - (b) The superintendent shall maintain the Indiana DNA data base.
 - (c) The superintendent may contract for services to perform DNA analysis of convicted offenders under section 10 of this chapter to assist federal, state, and local criminal justice and law enforcement agencies in the putative identification, detection, or exclusion of individuals who are subjects of an investigation or prosecution of a sex offense, a violent crime, or another crime in which biological evidence is recovered from the crime scene.
 - (d) The superintendent shall adopt rules under IC 4-22-2 necessary to administer and enforce the provisions and intent of this chapter.
- SECTION 2. IC 10-1-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) This section applies to a person described in subsection (b) or (c).
 - (b) This section applies to **the following**:
 - (1) A person convicted of a felony under IC 35-42 (offenses against the person), IC 35-43-2-1 (burglary), IC 35-42-4-6 (child solicitation):
 - ~~(1)~~ (A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; and
 - ~~(2)~~ (B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.
 - (2) **A person arrested for a felony described in IC 35 after June 30, 1999.**
 - (c) This section applies to a person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would

have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1, if the felony had been in effect:

- (1) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; and
- (2) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(d) A person described in subsection (b) or (c) shall provide a DNA sample to the department of correction **or arresting authority**. A ~~convicted~~ person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

SECTION 5. IC 10-1-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) A laboratory conducting forensic DNA analysis in Indiana must implement and follow nationally recognized standards for DNA quality assurance and proficiency testing, such as those approved by the American Society of Crime Laboratory Directors Laboratory Accreditation Board.

(b) Quality assurance guidelines issued by the Technical Working Group on DNA Analysis Methods (a committee of scientists that has promulgated nationally recognized quality assurance standards) serve as the standard for DNA testing under this chapter unless and until national standards are set.

(c) A laboratory conducting forensic DNA analysis in Indiana shall forward relevant DNA data base records to the state police laboratory.

(d) After a DNA profile is completed, the laboratory shall destroy the DNA sample from which the profile was prepared.

SECTION 3. IC 10-1-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. A person who knowingly or intentionally disseminates, receives, or otherwise uses or attempts to use information in the Indiana DNA data base or DNA samples used in DNA analyses, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law commits a ~~Class A misdemeanor~~. **Class D felony.**

SECTION 4. IC 10-1-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) A person whose DNA profile has been included in the Indiana DNA data base may request expungement of the profile from the DNA data base on the grounds that: ~~The conviction on which the authority for inclusion in the Indiana DNA data base has been reversed and the case has been dismissed:~~

- (1) at least one (1) year has elapsed since the arrest on which the authority for inclusion in the Indiana DNA data base was established; and**
- (2) the case in which the arrest was made is not pending before a court.**

(b) Upon receipt of a request for expungement, the superintendent shall send a copy of the request and accompanying information to the attorney general not later than ten (10) days after receipt of the request. The attorney general shall notify the superintendent not later than thirty (30) days after receipt of the copy of the request from the superintendent whether the attorney

general objects or does not object to the expungement of the DNA profile.

(c) If the attorney general objects to the expungement, the person requesting the expungement shall file the expungement petition in the court having jurisdiction over the charge filed on which the DNA sample was based. The court shall determine the validity of the petition.

~~(b)~~ (d) All identifiable information in the Indiana DNA data base pertaining to a person requesting expungement under subsection (a) shall be expunged and all samples from the person shall be destroyed upon receipt of the following:

(1) A written request for expungement under subsection (a).

(2) ~~A certified copy of the court order reversing and dismissing the conviction; and A statement that:~~

(A) at least one (1) year has elapsed since the arrest on which the authority for inclusion in the Indiana DNA data base was established; and

(B) the case in which the arrest was made is not pending before a court.

(3) A certified copy of supporting court records to show that the case is no longer pending before a court.

~~(3)~~ (4) Any other information necessary to ascertain the validity of the request.

(5) Notification from the attorney general under subsection (b) that the attorney general does not object to the expungement.

~~(e)~~ (e) Upon expungement of a person's DNA profile from the Indiana DNA data base, the superintendent shall request expungement of the person's DNA profile from the national DNA data base.

(Reference is to SB 71 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

GARTON

Chairperson